THE HON'BLE DR. JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 11212 of 1994

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DATED: 17.11.2005

Between:

P. Gopalakrishna Rao & 2 others

… PETITIONERS

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AND

The Chairman, District Schedule Caste Service

Cooperative Society-cum-Collector,

Srikakulam, Srikakulam District

& 2 others.

… RESPONDENT

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THE HON'BLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 11212 of 1994

ORDER:-

This writ petition is filed by three employees of the 1st respondent cooperative society seeking to declare the action of the respondents in not promoting them to the next promotional post in pursuance of circular No.E1/9331/APSC/89,

dated 12.01.1990, issued by the 3rd respondent as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to promote the petitioners to the post of A.E.O., M.E.O. and Senior Assistant respectively.

The grievance of the petitioners is that their cases were not considered for promotion in pursuance of the circular, dated 12.01.1990, issued by the 3rd respondent, therefore, a direction has to be issued to the respondents to promote them to the next higher post.

Learned counsel for the respondents referred to the note at the end of the circular, dated 12.01.1990, which is as follows:

> "All promotions to the posts shall be made on the ground of merit-cum-seniority."

Therefore, unless the merit of the respective candidates, who are qualified to be promoted is considered, either the petitioners or other employees are not automatically entitled for promotion on the basis of seniority. Therefore, no direction can be given to the respondents to promote the eligible candidates on the basis of seniority. It is for the respondents to test the merit of the candidates who are qualified to hold the posts and to pass appropriate orders.

Heard Sri Ashok Anand, learned counsel for the petitioners and Sri S. Mohan, learned counsel for the respondents

It is needless to mention that there is no interim direction passed by this Court at the time of filing of the writ petition and the information regarding the subsequent developments is not available.

In the light of the above circumstances, the petitioners are not entitled for the relief as prayed for. Accordingly, the writ petition is dismissed. No order as to

costs.

However, it is made clear that the dismissal of the writ petition is not a bar for the respondents to consider the candidature of the petitioners for future promotions in accordance with law.

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17.11.2005

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